

FILED UNDER SEAL

Redacted in Part

EXHIBIT 74

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

IN RE PACIFIC FERTILITY)
 CENTER LITIGATION,) Case No. 3:18-cv-01586-JSC
)
 _____)

Volume I

VIDEOTAPED & VIDEOCONFERENCED DEPOSITION of
 ELDON G. LEAPHART
 November 18, 2020

CHERREE P. PETERSON, RPR, CRR, CRS No. 11108
 468391



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13 VIDEOTAPED & VIDEOCONFERENCED DEPOSITION of
14 ELDON G. LEAPHART - Volume I, taken on behalf of
15 Plaintiffs remotely beginning at 8:01 a.m., Wednesday,
16 November 18, 2020, before CHERREE P. PETERSON, RPR, CRR,
17 Certified Shorthand Reporter No. 11108.
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1 I am not defining what is dangerous in an embryology
2 setting because the material received already has done
3 that for me. The material received has identified what
4 the system is and what harm is. I can see that as
10:40 5 evidence, and now I can opine about the failsafe process
6 and the failsafe design.

7 Q. And, you know, I don't want to belabor it, but
8 we established you've never set foot in an embryology
9 lab; right?

10:40 10 A. That is correct.

11 Q. So I'm going to ask again, is it your view that
12 you are qualified as an expert to provide opinion to the
13 jury as to what would be or would not be dangerous in an
14 embryology lab?

10:40 15 A. As it relates to failsafe design of the
16 controller, yes.

17 Q. That's not the question. Do you -- do you have
18 any training in embryology?

19 A. I do not have training in embryology.

10:41 20 Q. Have you ever read a paper about embryology?

21 A. I have never read a paper on embryology.

22 Q. Is it within the scope of your expertise to
23 provide opinion as to what would and would not be
24 dangerous in an embryology lab?

10:41 25 A. It is not my position to define -- to define

1 what that -- what is dangerous and what is not dangerous
2 in an embryology lab.

3 Q. Are you relying on any peer-reviewed papers to
4 support your opinion that the TEC 3000 is not
10:42 5 unreasonably dangerous in its design and manufacturing?

6 A. I'm not relying on peer-reviewed papers.

7 Q. Have you ever heard of the serial number equals
8 zero issue?

9 A. From reviewing materials received, yes.

[REDACTED]

DEPOSITION OFFICER'S CERTIFICATE

(Civ. Proc. § 2025.520(e))

STATE OF CALIFORNIA)
) ss
COUNTY OF CONTRA COSTA)

I, CHERREE P. PETERSON, hereby certify:

I am a duly qualified Certified Shorthand Reporter, in the State of California, holder of Certificate Number CSR 11108 issued by the Court Reporters Board of California and which is in full force and effect. (Fed. R. Civ. P. 28(a)).

I am authorized to administer oaths or affirmations pursuant to California Code of Civil Procedure, Section 2093(b) and prior to being examined, the witness was first duly sworn by me. (Fed. R. Civ. P. 28(a), 30(f)(1)).

I am not a relative or employee of any attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in this action. (Fed. R. Civ. P. 28).

I am the deposition officer that stenographically recorded the testimony in the foregoing deposition and the foregoing transcript is a true record of the testimony given by the witness. (Fed. R. Civ. P.

1 30(f)(1)).

2 Before completion of the deposition, review of
3 the transcript (xx) was () was not requested. If
4 requested, any changes made by the deponent (and
5 provided to the reporter) during the period allowed, are
6 appended hereto. (Fed. R. Civ. P. 30(e)).

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8 Dated: November 20, 2020
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